No. 18-966

IN THE

Supreme Court of the United States

DEPARTMENT OF COMMERCE, *et al.*,

Petitioners,

v.

STATE OF NEW YORK, *et al.*,

Respondents.

ON WRIT OF CERTIORARI BEFORE JUDGMENT TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF OF LATINOJUSTICE PRLDEF AND FIFTEEN OTHER ORGANIZATIONS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

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STATEMENT OF INTEREST[1]

Amicus curiae LatinoJustice PRLDEF (LJP) champions an equitable society by using the power of the law together with advocacy and education. Since its founding as the Puerto Rican Legal Defense and Education Fund, LJP has advocated for and defended the constitutional rights and the equal protection of all Latinos[2] under the law. LJP has engaged in and supported law-reform civil-rights litigation in state and federal courts across the country combatting discriminatory policies and has worked to secure the voting rights and political participation of Latino voters since 1972, when it initiated a series of suits to create bilingual voting systems throughout the United States.[3]

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1. Under Supreme Court Rule 37.6, counsel for *amici* certifies that no counsel for a party authored this brief in whole or in part, and no person other than *amici*, its members, or its counsel made a monetary contribution intended to fund the preparation or submission of this brief. The parties' blanket consent to the filing of this brief are on file with the Clerk of the Court.

2. In this brief, the term "Latino" will refer to the group that the Census Bureau designates as "Hispanic or Latino." Specifically, the Census Bureau defines "Hispanic or Latino" as "a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race." U.S. Census Bureau, Hispanic Origin, available at: https://www.census.gov/topics/population/hispanic-origin/about.html.

3. *See, e.g.*, *Arcia v. Florida Sec'y of State*, 772 F.3d 1335 (11th Cir. 2014); *Favors v. Cuomo*, 881 F. Supp. 2d 356 (E.D.N.Y. 2012); *Torres v. Sachs*, 381 F. Supp. 309 (S.D.N.Y. 1974); *Arroyo v. Tucker*, 372 F. Supp. 764 (E.D. Pa. 1974).

Descriptions of the additional fifteen *amici* are included in the attached Appendix. *Amici* include some of the nation's most prominent Latino and other community nonprofit organizations. Individually and collectively, *amici* advocate for civil rights and equal treatment for Latinos through a combination of public-policy analysis, civic engagement, professional-development initiatives, and legal advocacy. *Amici* are concerned that the proposed implementation of a citizenship question on the 2020 Census will cause a substantial undercount of Latinos and result in significant harm to Latino communities throughout the United States.

SUMMARY OF THE ARGUMENT

I. The Trump Administration has created an environment of fear and distrust in the Latino community. From the beginning, the Administration adopted measures that made it clear to Latino immigrants that they were not wanted in this country and should be deported as quickly as possible. One was an Executive Order that called for the immediate construction of a wall along the Mexican border and directed all executive departments and agencies to take actions "to repatriate illegal aliens swiftly. . . ."[4]

Beginning in 2017, Latinos began to avoid situations that could plausibly lead immigration officials to discover their immigration status. Latinos stopped reporting crimes, even if they were the victims. Latino domestic-abuse victims let their assailants go free by avoiding court hearings. Latino victims of Hurricane Harvey and the California wildfires refused government assistance

4. Exec. Order. No. 13767 §§ 1-2, 82 Fed. Reg. 8793 (Jan. 25, 2017).

and even hid from rescue teams. Latinos with potentially life-threatening illnesses stopped showing up to hospital and clinic appointments.

The Government argues (Brf. at 18-19)[5] that Latinos have nothing to fear by answering the citizenship question because the Census Bureau is precluded from sharing Census data with law enforcement officials. The Census Bureau's confidentiality obligations provide cold comfort to Latino immigrants for, despite laws prohibiting disclosure, the Government has used Census data to identify people of Japanese ancestry for internment during World War II and to identify Arab-Americans following the 9/11 attacks.

II. Given the current anti-immigrant environment, it is unsurprising that the district courts have found that a sensitive inquiry like the citizenship question will lead to an undercount of the Latino population. For purposes of this brief, *amici* accept as true the finding of both district courts that, as a matter of undisputed fact, the inclusion of a citizenship question on the 2020 Census will have the inevitable effect of reducing the response rates of Latinos, including U.S. citizens and permanent residents who fear the implications of disclosing the citizenship status of other members of their families.[6]

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5. Citations to the Petition for a Writ of Certiorari Before Judgment are in the form "Pet. Brf. at __"; citations to the Brief for the Petitioners are in the form "Brf. at __"; citations to the district court record are in the form "Doc. No. __"; citations to the Administrative Record are in the form "AR __"; and citations to the trial transcript are in the form "Tr. __".

6. *New York v. United States Dep't of Commerce*, 351 F. Supp. 3d 502, 578–84 (S.D.N.Y. 2019); *California v. Ross*, Nos. 18-cv-01865-RS, 18-cv-02279, 2019 U.S. Dist. LEXIS 36230, **20–21 (N.D. Cal. March 6, 2019).

III. An undercount of the Latino population will cause substantial harm to the Latino community. The Census impacts almost every aspect of our society. It is used to determine where Congress will direct billions of dollars in federal aid. It is used to allocate political power geographically at the federal, state, and local levels. And it is used by private actors to shape investment decisions and by emergency responders to prepare for natural disasters.

The inevitable undercounting of Latinos will harm the Latino community in each of these aspects. First, it will cause Latino communities to lose federal funding in critical areas such as education, healthcare, infrastructure allocations, and other social services. Second, it will cause a dilution of political power in the Latino community and may actually prevent non-English-speaking Latino citizens from exercising their right to vote. Finally, it will reduce capital investments in the Latino community and may even hinder emergency responders from adequately preparing to deal with natural disasters in the Latino community.

ARGUMENT

As the Government has acknowledged (Pet. Brf. at 13), the decennial Census is a "'matter of national importance' with 'massive and lasting consequences.'" Congress and its designees, the Secretary of Commerce and the Census Bureau, have both a constitutional and a statutory obligation to count *all* persons living in the United States, citizens and noncitizens alike.[7]

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7. U.S. CONST. art I, § 2, cl. 3 & amend XIV, § 2; *Utah v. Evans*, 536 U.S. 452, 478 (2002) (noting that there is "a strong constitutional interest in accuracy" of the Census); 13 U.S.C. § 141.

Amici have a strong interest in ensuring that the Census Bureau conducts a full, proper, and accurate Census in 2020. *Amici* will explain in this brief why the Secretary's eleventh-hour decision to add a citizenship question to the 2020 Census—if allowed to stand—will cause "massive and lasting consequences" to the Latino community.

I. The Administration's anti-immigrant policies have created an environment of fear and distrust in the Latino community.

A. The current Administration has adopted anti-immigrant policies that contribute to Latinos' sense of fear.

Just five days after the Inauguration, the President issued two immigration-related Executive Orders. One called for the immediate construction of a wall along the U.S.-Mexico border and directed all executive departments and agencies to take actions "to repatriate illegal aliens swiftly. . . ."[8] The second mandated the withholding of federal funds from sanctuary cities that limited their cooperation with immigration officials, and instructed the Department of Homeland Security (DHS) to publicize, every week, any crimes committed by undocumented immigrants.[9]

Since January 2017, the Administration has adopted anti-Latino policies across multiple domains. For example,

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8. Exec. Order. No. 13767 §§ 1–2, 82 Fed. Reg. 8793 (Jan. 25, 2017).

9. Exec. Order No. 13768 § 9, 82 Fed. Reg. 8799 (Jan. 25, 2017).

after convincing himself that millions of undocumented immigrants cost him the popular vote by voting illegally in the 2016 election, the President signed an Executive Order establishing a commission on "election integrity" to focus on supposed improper or fraudulent voter registration and voting.[10] He pardoned the former Maricopa County, Arizona Sheriff, Joe Arpaio, whom a federal district court had held in criminal contempt for disregarding a court order that enjoined his practice of racially discriminating against Latinos.[11] The Administration also adopted a policy that restricted lawful permanent residents from serving in the military unless they could pass undefined and vague new background investigations and requirements.[12]

As one of its major policy initiatives, the Trump Administration rescinded the Deferred Action for Childhood Arrivals (DACA)[13] program. Federal courts have acknowledged that the Administration's hostility

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10. Exec. Order No. 13799, 82 Fed. Reg. 22389 (May 11, 2017). The President subsequently had to terminate the Commission because many states refused to cooperate with it. Exec. Order No. 13820, 83 Fed. Reg. 969 (Jan. 3, 2018).

11. Kevin Lipak, et al., *Trump pardons former Sheriff Joe Arpaio*, CNN (Aug. 27, 2017), https://www.cnn.com/2017/08/25/politics/sheriff-joe-arpaio-donald-trump-pardon/index.html.

12. Sameer Ahmed & Imaan Patel, *Federal Judge Blocks Trump's Anti-Immigrant Military Enlistment Policy*, ACLU (Nov. 21, 2018), https://www.aclu.org/blog/immigrants-rights/federal-judge-blocks-trumps-anti-immigrant-military-enlistment-policy.

13. Elaine C. Duke, *Memorandum on Rescission of Deferred Action for Childhood Arrivals (DACA)*, U.S. Dept. of Homeland Sec. (Sept. 5, 2017), https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca.

towards the Latino community may have been a motivating factor in the decision to rescind DACA. The Ninth Circuit recently held that the plaintiffs challenging the rescission decision had sufficiently "allege[d] a history of animus toward persons of Hispanic descent evidenced by both pre-presidential and post-presidential statements by President Trump."[14] A concurring judge noted the "litany of statements by the President and high-ranking members of his Administration that plausibly indicate animus toward undocumented immigrants from Central America."[15] A federal district court in New York reached the same conclusion.[16]

In short, on a number of fronts, the Administration has made clear its intent to limit the number of immigrants from Latin America, and to deport the immigrants that are already here. Thomas Homan, the Acting Director of U.S. Immigrations and Customs Enforcement (ICE), testified before Congress that every undocumented immigrant in the country "should be uncomfortable. You should look over your shoulder. And you need to be worried."[17]

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14. *Regents of the Univ. of California v. U.S. Dep't of Homeland Sec.*, 908 F.3d 476, 519 (9th Cir. 2018).

15. *Id.* at 523.

16. *Batalla Vidal v. Nielsen*, 291 F. Supp. 3d 260, 276–77 (E.D.N.Y. 2018) (holding that statements Mr. Trump made are "sufficiently racially charged, recurring, and troubling as to raise a plausible inference that the decision to end the DACA program was substantially motivated by discriminatory animus.")

17. Elise Foley, *ICE Director To All Undocumented Immigrants: 'You Need To Be Worried,'* HUFFINGTON POST (June 13, 2017), https://www.huffingtonpost.com/entry/ice-arrests-undocumented_us_594027c0e4b0e84514eebfbe.

B. Latinos have more frequently avoided interactions with the government since President Trump took office.

Fearing that the Administration will follow up on its promise to rid the United States of undocumented immigrants, Latino immigrants have been pushed into the shadows since President Trump took office. Latinos are less likely to contact the authorities if they are victims of a crime because they fear the immigration consequences of going to the police. In the first three months of 2017, crimes reported by Latinos in the city of Houston fell by more than forty percent compared to the previous year.[18] The same phenomenon—dramatically reduced reporting of crimes by Latinos—has been reported in other major U.S. cities.[19] Some Latino domestic-abuse victims have dropped their cases against their abusers out of fear of attending court hearings to press their charges.[20] During Hurricane Harvey, some Latino families were afraid to

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18. Ileana Najarro & Monica Rhor, *Deeper Underground: Fear drives mistrust between police, immigrant communities*, Houston Chronicle (Sept. 22, 2017), https://www.houstonchronicle.com/deeperunderground/1/; *see also* AR 816 (noting that, due to the Trump Administration's policies, immigrants are less likely to report crimes or enroll their children in healthcare programs).

19. Rob Arthur, *Latinos in Three Cities are Reporting Fewer Crimes Since Trump Took Office*, FiveThirtyEight (May 18, 2017), https://fivethirtyeight.com/features/latinos-report-fewer-crimes-in-three-cities-amid-fears-of-deportation/.

20. Heidi Glenn, *Fear of Deportation Spurs 4 Women to Drop Domestic Abuse Cases in Denver*, NPR (Mar. 21, 2017), https://www.npr.org/2017/03/21/520841332/fear-of-deportation-spurs-4-women-to-drop-domestic-abuse-cases-in-denver.

call for help, refused refuge in shelters and assistance at food banks, and even hid from rescue teams.[21] Similarly, some Latino victims of the wildfires that ravaged California were reluctant to accept aid and relief from government officials.[22]

Recognizing that Latinos are reluctant to report crimes, private actors have begun to commit hate crimes against Latinos more frequently. For example, in Florida, a group of seven criminals recently kidnapped, beat, and robbed a Latino man, and threatened him with deportation if he went to the police after they released him.[23] The police officer investigating the case told reporters he believed these criminals were deliberately targeting "undocumented immigrants because they are less likely to report being a victim of a crime to the police."[24]

The effects of the growing fear of deportation in the Latino community have spread beyond law enforcement. Some undocumented Latino immigrants with potentially life-threatening diseases have refused to show up to hospital and clinic appointments.[25] As one Latino immigrant

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21. Najarro & Rhor, *supra* note 18 ("As soon as they saw some of the rescuers wearing border patrol uniforms, they didn't want to come out.").

22. AR 1209.

23. Wayne K. Roustan, *Armed kidnapping scheme targets undocumented immigrants, police say*, S. FLA. SUN-SENTINEL (Feb. 8, 2019), https://www.sun-sentinel.com/local/broward/davie/fl-ne-davie-armed-kidnapping-20190207-story.html.

24. *Id.*

25. Ileana Najarro & Jenny Deam, *Fearing deportation,*

remarked, "[i]mmigration officers are more terrifying than an illness."[26] In some communities, there has been a fifty percent drop in the number of prenatal-care patients seeking regular care and assessments at hospitals and clinics.[27] Similarly, a Kaiser Family Foundation study found evidence of a nationwide decrease in participation in Medicaid and Children's Health Insurance Program by Latino families.[28]

Latino families' fear of deportation has filtered into the public-school system. Hundreds, if not thousands, of immigrant students have stopped attending public schools, and their parents have avoided going to open houses and other school events.[29] One school principal had to send his staff or a car service to pick up parents who were wary of walking even a few blocks to attend a parent-teacher conference.[30]

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undocumented immigrants in Houston are avoiding hospitals and clinics, HOUSTON CHRONICLE (Dec. 27, 2017), https://www.houstonchronicle.com/news/houston-texas/houston/article/Fearing-deportation-undocumented-immigrants-are-12450772.php.

26. *Id.*

27. *Id.*

28. *Id.*

29. Monica Rhor, *Trump's immigrant crackdown brings 'blanket of fear' to Houston schools*, HOUSTON CHRONICLE (Dec. 21, 2017), https://www.houstonchronicle.com/news/houston-texas/houston/article/Trump-s-immigrant-crackdown-brings-blanket-of-12442229.php. *See also* AR 1274 (House Speaker Nancy Pelosi describes similar fears in public schools in her district).

30. Rhor, *supra* note 29.

The Government suggests that the Latino community's fear of answering the citizenship question is irrational because laws forbid the Census Bureau from disclosing information obtained through the decennial Census. (Brf. at 18-19.) But as even the Government's trial witness acknowledged, a hostile environment, combined with the inclusion of a sensitive inquiry like the citizenship question, can have an effect on response rates.[31]

The Latino community's fear of answering the citizenship question is reasonable. The Government does not always adhere to the confidentiality obligations on the use of decennial Census data. Despite peacetime laws prohibiting disclosure, the Secret Service used Census Bureau data, including names, addresses, citizenship status, and other personal information, to target people of Japanese ancestry for internment during World War II.[32] Similarly, after 9/11, the Census Bureau provided DHS with data on Arab-Americans, including information on how many people of Arab backgrounds live in certain ZIP codes.[33] It happened before; and it can happen again.

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31. Tr. 927.

32. Hansi Lo Wang, *Some Japanese-Americans Wrongfully Imprisoned During WWII Oppose Census Question*, Nat'l Pub. Radio, Inc., (Dec. 26, 2018), https://www.npr.org/2018/12/26/636107892/some-japanese-americans-wrongfully-imprisoned-during-wwii-oppose-census-question.

33. Lynette Clemetson, Homeland Security Given Data on Arab-Americans, N.Y. Times (July 30, 2004), https://www.nytimes.com/2004/07/30/us/homeland-security-given-data-on-arab-americans.html.

In fact, the Census Bureau currently is working on an agreement with DHS whereby DHS would provide personal data about non-citizens, including their immigration status.[34] The data that DHS would share with Census officials would include noncitizens' full names and addresses, birth dates and places, as well as Social Security numbers and alien registration numbers.[35] Legal scholars have opined that by entering into this agreement, the "Trump administration may be seeking to create a registry of noncitizens."[36]

In sum, the Secretary's proposal to add a citizenship question to the 2020 Census must be considered in light of the current anti-immigrant environment. In this environment, Latinos will undoubtedly see the proposal to add a citizenship question as part of a broader campaign to identify Latino immigrants and remove them from the United States.

II. Inclusion of a citizenship question will result in a significant undercount of the Latino population.

Given the fear that the Administration's policies have instilled in the Latino community, it is not surprising that the district courts have found that addition of a citizenship question to the 2020 Census will result in a significant undercount of the Latino population. Specifically, the New York court found that response rates in households

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34. Garance Burke & Frank Bajak, *Census Bureau Seeks Citizenship Data From DHS Ahead of 2020 Census*, TIME (Mar. 6, 2018), http://time.com/5546513/2020-census-immigration-data/.

35. *Id.*

36. *Id.*

with at least one non-citizen will decrease by at least 5.8 percent.[37] The court noted that this decrease will likely be much more severe than the Government's conservative estimate.[38] The district court's findings are supported by the record. By one estimate, the citizenship question is expected to cause an undercount of approximately 28.7 million total individuals—10.045 million of whom would be Latino.[39] The citizenship question is expected to decrease total Latino response rates (regardless of citizenship) by as much as 14.1 percent.[40]

As individuals become more aware of the citizenship question, their likelihood of census participation drops. During the course of a single survey, 6.1 percent of all initially willing respondents changed their minds and indicated that they would no longer participate in a census with a citizenship question.[41] For Latinos, 11.2 percent changed their minds towards non-responsiveness despite indicating an initial willingness to participate.[42]

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37. *New York*, 351 F. Supp. 3d at 583.

38. *Id.*

39. Tr. 683–85 (expert testimony of Dr. Matthew Barreto).

40. Tr. 684. In a study published in March 2019, Harvard researchers concluded that, conservatively, the citizenship question would lead to an undercount of between 3.9 million and 4.6 million Latinos nationwide. Matthew A. Baum et al., ***Estimating the Effect of Asking About Citizenship on the U.S. Census***, HARV. KENNEDY SCH., SHORENSTEIN CTR. ON MEDIA, POLITICS & PUB. POLICY (Mar. 2019), https://shorensteincenter.org/wp-content/uploads/2019/03/CensusCitizenship_March2019.pdf?x78124.

41. Tr. 694.

42. Tr. 694.

Because the evidence supporting these findings is uncontroverted, for purposes of this brief, we will accept the findings as true.[43] The Census Bureau itself has determined that a citizenship question would pose a "high barrier" to census participation.[44] We also accept as true the finding that mitigation efforts will not only be ineffective to counteract the citizenship question's effects, but will almost certainly exacerbate an already worsening circumstance.[45]

A few examples will illustrate the length to which some members of the Latino community will go to avoid answering questions about their citizenship status. During one research interview, a Census Bureau field representative recalled how his Latino interviewee nervously "shut down" and abandoned the official *in the interviewee's own living room* when asked about his immigration status.[46] In another instance, a Latino

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43. *New York*, 351 F. Supp. 3d at 578–84; *California v. Ross*, Nos. 18-cv-01865-RS, 18-cv-02279, 2019 U.S. Dist. LEXIS 36230, at **20–21 (N.D. Cal. March 6, 2019).

44. U.S. Census Bureau, 2020 Census Barriers, Attitudes, and Motivators Study (CBAMS) Focus Group Final Report, p. 53 (Jan. 24, 2019), https://www2.census.gov/programs-surveys/decennial/2020/program-management/final-analysis-reports/2020-report-cbams-focus-group.pdf (hereinafter "CBAMS Report").

45. *New York*, 351 F. Supp. 3d at 584–85 (explaining how the NRFU process will likely "exacerbate" undercount problems); *Ross*, 2019 U.S. Dist. LEXIS 36230 at **51–53 (explaining the fear caused by in-person follow-up efforts).

46. U.S. Census Bureau, Ctr. for Survey Measurement Memorandum for Assoc. Directorate for Research and Methodology (ADRM), p. 5 (Sept. 20, 2017), https://www2.census.

family's fear of deportation led them to flee their mobile-home community in order to avoid reconnecting with Census Bureau officials.[47]

These stories breathe life into the Census Bureau's own conclusion that the citizenship question may be a determining factor for participation in the 2020 Census. The Bureau noted that: "[w]hile all participants expressed the desire to be counted, fear of deportation outweighs any benefit."[48]

Organizations that the Census Bureau has traditionally relied on to bolster response rates among minority communities share that conclusion. *Amicus* National Hispanic Caucus of State Legislators (NHCSL), the Leadership Conference on Civil and Human Rights, and the National Association of Latino Elected and Appointed Officials Educational Fund educate and encourage minority populations to participate in government programs, including the Census. In light of the citizenship question, these organizations have said that they do not expect their efforts to make the difference they would otherwise make.[49]

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gov/cac/nac/meetings/2017-11/Memo-Regarding-Respondent-Confidentiality-Concerns.pdf (hereinafter "CSM Memo").

47. *Id.*

48. Michael Wines, *Inside the Trump Administration's Fight to Add a Citizenship Question to the Census*, N.Y. TIMES (Nov. 4, 2018), https://www.nytimes.com/2018/11/04/us/wilbur-ross-commerce-secretary.html.

49. Affidavit of Arturo Vargas ¶ 25 (executed Oct. 23, 2018) (Doc. No. 498-21); Tr. 698–99; Lynn Vavreck, *Why Asking About Citizenship Could Make the Census Less Accurate*, N.Y. TIMES (Jan. 19, 2018), https://www.nytimes.com/2018/01/19/upshot/

III. The undercount of the Latino population will likely cause significant harm to the Latino community.

The Latino population currently stands at 56.6 million—more than 18 percent of the Nation's populace.[50] For the first time, Latinos make up the largest ethnic minority group in the United States.[51] Nationally, Latinos are the second-fastest growing racial or ethnic group.[52] Between 2014 and 2015, Latinos accounted for nearly half of the Nation's total population growth.[53]

The addition of a citizenship question on the 2020 Census and resulting undercount will, accordingly, impact Latinos more than other ethnic groups. University of Chicago professor Colm O'Muircheartaigh, a census expert and former adviser to the Census Bureau, opined that even if the Bureau made additional efforts to count

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census-citizenship-hispanics-immigrants-mistrust.html (noting Spanish-language television network Telemundo's role in fostering trust among Latinos and the government).

50. U.S. Census Bureau, QuickFacts: United States (July 1, 2018) https://www.census.gov/quickfacts/fact/table/US/PST045217.

51. Natasha Bach, *One-Third of Eligible Voters in the U.S. Will be Non-White in 2020, Research Says*, Fortune (Jan. 30, 2019), http://fortune.com/2019/01/30/2020-voting-population-demographics-pew/.

52. Antonio Flores, *How the U.S. Hispanic population is changing*, Pew Research Ctr. (Sept. 18, 2017), http://www.pewresearch.org/fact-tank/2017/09/18/how-the-u-s-hispanic-population-is-changing/.

53. *Facts for Features: Hispanic Heritage Month 2016*, U.S. Census Bureau (Oct. 12, 2016), https://census.gov/newsroom/facts-for-features/2016/cb16-ff16.html.

Latinos, it would be unable to "remediate the damage caused by the introduction of the citizenship question."[54] And the damage triggered by inclusion of the citizenship question can have lasting consequences.

Data collected in the decennial Census provide the foundation for myriad decisions made daily by federal, state, and local governments and by the private sector. The inevitable undercounting of Latinos in the 2020 Census will cause at least three distinct harms to the Latino community. First, it will cause the loss of federal funding for a decade in critical areas such as education, healthcare, infrastructure allocations, and other social services. Second, it will cause a dilution of political power in the Latino community. Finally, it will likely reduce capital investments and civic expenditures in emergency services, putting members of the Latino community at risk.

A. Loss of federal funding and related programs.

One of the main purposes of collecting information through the decennial Census is to allow Congress to "adapt the public measures to the particular circumstances of the community."[55] And in fact, several hundred federal financial assistance programs rely on data derived from the decennial Census to guide the geographic distribution of some $800 billion of federal funds for programs

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54. Sudhin Thanawala, *Expert: Census citizenship question would hurt Latino count*, Assoc. Press (Jan. 7, 2019), https://www.apnews.com/4032a7a610d3456c90ba226a62bda1af.

55. The Founders' Constitution Doc. 19 (Univ. of Chicago ed., Vol. 2, 1987) (Summary of debate on Census Bill within the House of Representatives from Jan. 25–26 and Feb. 2, 1790).

that support health care, education, job training, and community development.[56] These programs include:

- $13.9 billion in Title I Grants to Local Education Agencies, which provide financial assistance to schools of primarily low-income children to ensure that all children are meeting state academic standards.[57] In the 2014-15 school year, Title I served more than 24 million children, about 34 percent of whom (over 8 million) were Latino.[58]

- $11.2 billion in Special Education Grants. To help schools comply with the Individuals with Disabilities Education Act, these grants are used to

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56. Andrew Reamer, *Counting for Dollars: The Role of the Decennial Census in the Geographic Distribution of Federal Funds*, Geo. Wash. Inst. Pub. Policy, (Apr. 17, 2018) (taken from *Will You Count? Latinos in the 2020 Census*, Geo. L., The Leadership Conference on Civil & Human Rights (Apr. 17, 2018), http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-Latino-HTC.pdf); see also *Threatening us through the US Census*, Unidos US Blog (Aug. 1, 2018), https://blog.unidosus.org/2018/08/01/2018-unidosus-annual-conference-2020-census/ (referring to federal funding budget of over $600 billion).

57. *Fact Sheet: The 2010 Census and Latino Families*, The Leadership Conference Educ. Fund et al., http://www.protectcivilrights.org/pdf/census/latino-families-and-the-2010-census.pdf) (last accessed March 29, 2019).

58. *Will You Count? Latinos in the 2020 Census*, Geo. L., The Leadership Conference on Civil & Human Rights (Apr. 17, 2018), http://civilrightsdocs.info/pdf/census/2020/Fact-Sheet-Latino-HTC.pdf (citing data from "Children in Title I schools by race and ethnicity," Kids Count Data Ctr. (last updated Dec. 2018), http://datacenter.kidscount.org/data/tables/8418-children-in-title-i-schools-by-race-and-ethnicity#detailed/1/any/false/1381,1246,1124,1021,909/167,168,133,3,185,107/17042.

provide resources to students with disabilities and to help states provide early intervention services for 1.3 million Latino infants and toddlers and their families.[59]

- $8.3 billion in Head Start Program Grants. These grants to local public and private nonprofit and for-profit agencies provide child-development services to low-income children and families.[60] In the 2015-16 school year, Latino children comprised 37 percent (about 340,000) of all participants in the Head Start Program.[61]

- $2.9 billion in Child Care and Development Fund. In 2014, Latino children made up about 21 percent (294,000) of the children who received care through this program, which assists low-income families, families receiving temporary public assistance, and families transitioning from public assistance in obtaining childcare so they can work or attend training and education.[62]

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59. David Emenheiser, *White House Initiative On Educational Excellence for Hispanics and Hispanic Families and Special Education Webinar*, U.S. DEP'T OF EDUC. (June 18, 2014), https://sites.ed.gov/hispanic-initiative/files/2014/06/Webinar-Hispanic-Families-and-Special-Education_June-2014.pdf.

60. *Fact Sheet: The 2010 Census and Latino Families*, *supra* note 57.

61. *Head Start Program Facts, Fiscal Year 2016*, U.S. DEP'T OF HEALTH AND HUMAN SERVS. (last updated Dec. 4, 2018), https://eclkc.ohs.acf.hhs.gov/sites/default/files/pdf/hs-program-fact-sheet-2016.pdf.

62. Christina Walker & Stephanie Schmit, *A Closer Look at Latino Access to Childcare Subsidies*, CTR. LAW & SOC. POLICY

- $4.6 billion in Federal Foster Care Program. This program helps support young people by providing safe and stable out-of-home care for children until they return home, find adoptive families, or otherwise secure permanent arrangements.[63] Latinos made up 21 percent of all foster youth in 2015.[64]

- $69.5 billion in Supplemental Nutrition Assistance Program (SNAP). Nearly 21 percent of Latinos receive SNAP benefits.[65]

- $11.6 billion in National School Lunch Program (NSLP). NSLP provides nutritionally balanced lunches to children in low-income homes in public and nonprofit schools. In 2004-05, Latinos comprised 24 percent of all participants in this program.[66]

(Dec. 2018), http://www.clasp.org/resources-and-publications/publication-1/CloserLookAtLatinoAccess.pdf.

63. *Id.*

64. *Table: Children in Foster Care by Race and Hispanic Origin*, KIDS COUNT DATA CTR., ANNIE E. CASEY FOUND. (available at https://datacenter.kidscount.org/data/tables/6246-children-in-foster-care-by-race-and-hispanic-origin#detailed/1/any/false/573,869,36,868,867/2638,2601,2600,2598,2603,2597,2602,1353/12992,12993).

65. *Policy Basics: Introduction to the Supplemental Nutrition Assistance Program*, CTR. BUDGET AND POLICY PRIORITIES (Oct. 3, 2017), https://www.cbpp.org/research/policy-basics-the-supplemental-nutrition-assistance-program-snap

66. *Id.*

- $6.3 billion in Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). WIC gives nutrition assistance through vouchers used to buy nutrient-rich food for pregnant women and children under five.[67] Latino women and children made up 42 percent (more than 4 million) of all WIC participants in 2012.[68]

- $19.1 billion in Section 8 Housing Choice Vouchers Program. Section 8 vouchers help secure affordable housing for low-income seniors, people with disabilities, and families with children.[69] About 16 percent of Section 8 voucher recipients, or more than 300,000 households, are Latino.[70]

- $312 billion in Medicaid. Medicaid is a federal-state insurance program that provides health coverage to low-income families and individuals, parents, seniors, and people with disabilities. Approximately 32 percent of those enrolled in Medicaid in 2017 were Latino.[71]

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67. *Issue 9: Latino Participation in the Special Supplemental Nutrition Program for Women, Infants, and Children*, Profiles of Latino Health, Nat'l Council of La Raza (2015), https://www.unidosus.org/Assets/uploads/Publications/Nutrition-Profiles/2015plh_issue9_72715.pdf.

68. *Id.*

69. *Fact Sheet: The 2010 Census and Latino Families*, *supra* note 57.

70. *Id.*

71. *Medicaid Coverage Rates for the Nonelderly by Race/Ethnicity*, Henry J. Kaiser Family Found., *https://www.kff.org/*

- $11.1 billion in Children's Health Insurance Program (CHIP). CHIP provides funds to enable states to maintain and expand child health assistance to uninsured, low-income children. Approximately 60 percent of all Latinos eligible for CHIP participate in the program.[72]

Any undercounting of the Latino population—even a small one—will result in an inappropriately low allocation of federal funding for these programs that benefit the Latino community. The negative impact of an undercount will be felt everywhere, but obviously will fall most heavily on metropolitan areas that have a high concentration of Latinos, such as California, Texas, Florida, New York, and Illinois.[73] The district court correctly found that the citizenship question and resulting undercount will cause several states to lose federal funding.[74]

While these facts are troubling enough, simply seeing the issue as a matter of dollars and cents loses sight of the real-life impact these programs have on Latinos' lives. For example, the WIC program provides support

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medicaid/state-indicator/rate-by-raceethnicity-3/?currentTimeframe=0&selectedDistributions=hispanic&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D (last accessed March 29, 2019).

72. *Table: Medicaid Enrollment by Race*, 2003-2012, Chronic Conditions Data Warehouse (Apr. 17, 2017) (available at https://www.ccwdata.org/web/guest/medicaid-charts#a2_race_2003_2012).

73. *Fact Sheet: The 2010 Census and Latino Families*, *supra* note 57.

74. *New York*, 351 F. Supp. 3d at 608–10.

for mother and child from pregnancy until the child turns five.[75] This service means more to people than just money or stamps to buy food. It provides nutritional counseling to pregnant mothers and counseling and breastfeeding support for nursing mothers.[76] The decision to breastfeed is one of the most important decisions a new mother makes because breastfeeding assists in building a newborn's immunity to potentially fatal illnesses.[77] The program also provides access to a nutritionist and assists in establishing a support structure between program organizers and its parent-participants to discuss parenting, nutrition, and lifestyle concerns.[78] Studies have shown that the WIC program's emphasis on early nutritional support and

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75. Antonio Flores, *Facts on U.S. Latinos, 2015, Statistical Portrait of Hispanics in the United States*, Pew Research Ctr. (Sept. 18, 2017), https://www.pewhispanic.org/2017/09/18/facts-on-u-s-latinos/.

76. Renee Stepler & Mark Hugo Lopez, *U.S. Latino Population Growth and Dispersion has Slowed since Onset of the Great Recession, Ranking the Latino Population in Metropolitan Areas*, Pew Research Ctr (Sept. 8, 2016), https://www.pewhispanic.org/2016/09/08/latino-population-growth-and-dispersion-has-slowed-since-the-onset-of-the-great-recession/.

77. Christie G. Turin & Theresa J. Ochoa, *The Role of Maternal Breast Milk in Preventing Infantile Diarrhea in the Developing World*, Nat'l Ctr. Biotechnology Info., U.S. Nat'l Library Health (Mar. 15, 2014), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4036098/.

78. Steven Carlson & Zoë Neuberger, *WIC Works: Addressing the Nutrition and Health Needs of Low-Income Families for 40 Years*, Ctr. Budget & Policy Priorities (Mar. 29, 2017), https://www.cbpp.org/research/food-assistance/wic-works-addressing-the-nutrition-and-health-needs-of-low-income-families.

education is having a real and measurable effect on the lives of its participants.[79]

Similarly, reduced funding for Head Start programs in undercounted Latino communities will work harm on Latino children's educational prospects. The Head Start program was developed to promote school readiness for children under five from low-income families through education, health, social, and other services. And it has worked.[80] It has increased the probability that participants graduate from high school, attend college, and receive a post-secondary degree, license, or certification.[81] Latino Head Start participants had higher post-secondary graduation rates than other groups.[82]

Head Start's impact does not end at the classroom door. In general, Head Start parents offer more stimulating home environments and provide more emotional support for their children.[83] Head Start parents—even parents

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79. *Id.*; see also Elizabeth Metallinos-Katsaras et al., ***Maternal WIC participation improves breastfeeding rates: a statewide analysis of WIC participants***, 2015 MATERNAL & CHILD HEALTH J. 19(1):136–43; Theodore Joyce, ***Changes in breastfeeding among WIC participants following implementation of the new food package***, 2015 MATERNAL & CHILD HEALTH J. 19(4):868–76.

80. Diane Whitmore Schanzenbach & Lauren Bauer, ***The long-term impact of the Head Start program***, BROOKINGS INST. (Aug. 19, 2016), https://www.brookings.edu/research/the-long-term-impact-of-the-head-start-program/.

81. *Id.*

82. *Id.*

83. John M. Love et al., ***Making a difference in the lives of***

that do not share a home with their children—invest more time in learning activities with their children.[84] Head Start parents are more likely to open a book with their children and take time to read with them.[85] In short, Head Start parents are more likely to provide a stable and nurturing home for children to learn, to grow, and to become economically productive members of society.

Providing an adequate public education system ranks at the apex of governmental functions. As the Court has written,

> [E]ducation provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when selected groups are denied the means to absorb the values and skills upon which our social order rests.[86]

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infants and toddlers and their families: The impacts of early Head Start, Vols. I–III, U.S. DEP'T OF HEALTH AND HUMAN SERVS., ADMIN. FOR CHILDREN & FAMILIES (2002) (available at https://www.acf.hhs.gov/opre/resource/making-a-difference-in-the-lives-of-infants-and-toddlers-and-their-families-0).

84. Alexander Gelber & Adam Isen, *Children's Schooling and Parents' Behavior: Evidence from the Head Start Impact Study*, 101 J. PUB. ECON. 1, 25–38 (2013).

85. Love et al., *supra* note 83.

86. *Plyler v. Doe*, 457 U.S. 202, 221 (1982).

The negative consequences of a material loss in funding for educational programs such as Head Start will have a drastic and lasting effect on the Latino population.

B. Dilution of Latino political power.

At the conclusion of the 2020 Census, the Census Bureau will deliver the results to the Executive Branch to aid in calculating "the number of House memberships to which each state is entitled."[87] An undercount of Latinos will likely affect the amount of congressional representation that is afforded to their community.[88] Additionally, a Latino undercount will dilute local Latino political power because "Census data also underpin state legislative districts and local boundaries like City Councils and school boards."[89] Indeed, some members of one of the *amicus* signatories to this brief, NHCSL, are state legislators in jeopardy of losing their districts in the event of an undercount.

According to the Pew Research Center, Latinos account for approximately 32 million of all eligible

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87. *Congressional Apportionment*, U.S. Census Bureau (last updated Nov. 16, 2015), https://www.census.gov/topics/public-sector/congressional-apportionment/about.html; 2 U.S.C. § 2(a) (1996).

88. Thanawala, *supra* note 54.

89. Jim Tankersley & Emily Baumgaertner, *Here's Why an Accurate Census Count Is So Important*, N.Y. Times (Mar. 27, 2018), https://www.nytimes.com/2018/03/27/us/politics/census-citizenship-question.html.

voters in the 2020 election.[90] Accordingly, Latinos should have significant political influence.[91] But an undercount of Latinos in the 2020 Census threatens to leave the Latino community without the federal, state, or local representation to which it would otherwise be entitled.

The district court credited plaintiffs' expert's conclusion that states with a net differential undercount of people who live in noncitizen households, such as California, are "'extremely likely' to lose a congressional seat that it would not lose otherwise."[92] The court accordingly found that a net differential undercount of people who live in noncitizen households will "cause several jurisdictions to lose seats in the next congressional apportionment" and "will cause another set of jurisdictions to lose political representation in the next round of intrastate redistricting."[93] And, the court further found that states that lose seats in Congress will likely see decreases in their share of federal funding and influence due to their reduction in voting power in Congress.[94]

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90. Anthony Cilluffo & Richard Fry, *An early look at the 2020 electorate*, Pew Research Ctr. (Jan. 30, 2019), http://www.pewsocialtrends.org/essay/an-early-look-at-the-2020-electorate/.

91. Suzanne Gamboa, *Latino voters will have more say in 2020 with new primary schedule*, NBC News (Jan. 8, 2019), https://www.nbcnews.com/news/latino/latino-voters-will-have-more-say-2020-new-primary-schedule-n955791; see also Cilluffo & Fry, *supra* note 90.

92. *New York*, 351 F. Supp. 3d at 594.

93. *Id.*

94. *Id.* at 596–97.

An undercount in the Latino population may also have adverse consequences on the right to a Spanish ballot for those citizens with limited English proficiency. Census data will be used to determine whether a minority citizen is entitled to voting language assistance under Section 203 of the Voting Rights Act.[95] Under Section 203, voters are entitled to a Spanish ballot if their community has a Spanish designation, which is given when a specified number or percentage of people within that area are Spanish speakers with limited English proficiency.[96]

The Section 203 language provisions are necessary to ensure that Latinos can effectively exercise their right to vote. Without Section 203 designation, many eligible Latino voters would not be able to cast a ballot because one-third of Latinos are not proficient in English and would likely have trouble reading an English ballot.[97] An undercount of Latinos in the 2020 Census may prevent eligible Latino voters from participating in the democratic process, and prevent them from exercising their full political power.

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95. *About Language Minority Voting Rights*, U.S. Dep't of Justice (Mar. 27, 2018), https://www.justice.gov/crt/about-language-minority-voting-rights.

96. *Id.*

97. Jens Manuel Krogstad et al., *English Proficiency on the Rise Among Latinos*, Pew Research Ctr. (May 12, 2015), https://www.pewhispanic.org/2015/05/12/english-proficiency-on-the-rise-among-latinos/.

C. Reduction in capital investments and destabilization of the Latino community.

Census Bureau data are used for more than just allocating federal funding and apportioning representatives. Private businesses, too, depend on reliable Census data in their economic and strategic planning decisions. The Census Bureau's own website provides several illustrations of how Census data are used to support business investment in local communities.[98] Without accurate Census data, there will be an inevitable decline in investments in the Latino communities.

Latinos are a financial force in the economy. Approximately 4.4 million Latino-owned businesses in the U.S. contribute more than $700 billion to the economy annually, according to the U.S. Hispanic Chamber of Commerce.[99] Latinos spent $1.3 trillion in 2015 and are

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98. *Economic Census: Uses of Data*, U.S. Census Bureau (available at https://www.census.gov/programs-surveys/economic-census/guidance/data-uses.html). The Census Bureau even provides a free, comprehensive on-line tutorial on how to use Census data to advance your business, which can be found at https://uscensusbureau.github.io/census-academy/.

99. Rohit Arora, *Latinos: A Powerful Force Turbocharging small-business growth and driving $700 billion into the U.S. Economy*, CNBC (Sept. 25, 2018), https://www.cnbc.com/2018/09/25/latinos-are-a-powerful-force-fueling-small-business-growth-in-the-us.html; *see also* Claire Kramer Mills et al., *Latino-Owned Businesses: Shining a Light on National Trends*, Fed Small Bus. (Nov. 13, 2018), https://www.fedsmallbusiness.org/analysis/2018/latino-owned-small-businesses-national-%E2%80%8E%E2%80%8Etrends.

expected to spend $1.7 trillion by 2020.[100] Because Latinos have such enormous buying power, inaccuracies in the Census data will reverberate strongly on commercial decision making and financial investment that are pegged to Census data.

Census data underpin countless commercial decisions in this country. Businesses and local planners use Census data to plan best locations to open their stores, facilities, and offices.[101] For example, a television station in Philadelphia uses zip code level and Census block data to obtain viewer profile data to design and implement its advertising strategies.[102] Similarly, a real estate company in Colorado uses census data to determine which languages to use on a series of instructional tapes on buying and selling real estate.[103] Some grocery stores use Census data to determine the merchandise they stock based on the needs of the population that they serve.[104] Federally funded programs designed to stimulate investments in

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100. *Buying Power of Hispanic Consumers in the United States from 1990 to 2020*, STATISTA (Dec. 2016), https://www.statista.com/statistics/251438/hispanics-buying-power-in-the-us/.

101. *The Use of Census Data: An Analytical Review*, COUNCIL OF ECON. ADVISORS (Apr. 1, 2000), https://clintonwhitehouse4.archives.gov/media/pdf/censusreview.pdf.

102. *Economic Census: Uses of Data*, *supra* note 98.

103. *Id.*

104. *Cf.* U.S. CENSUS BUREAU, *Guide to Data Sources for Retail Trade from the U.S. Census Bureau*, https://www.census.gov/econ/retail.html (last accessed March 29, 2019) (collecting data intended to be used by commercial businesses and data concerning commercial businesses).

distressed communities, such as the Opportunity Zones program that benefits many Latino residents in income-depressed communities, likewise use Census data in their allocation of funds.[105]

Even Federal Communication Commission spectrum inventory auctions are based on Census blocks such that the value of the spectrum inventory and investment attractiveness might be diminished if the Census block is artificially lowered.[106] This may result in the widening of the technology gap for Latinos.

The ramifications of an undercount go beyond economics. Government bodies also use Census data to plan for the provision of emergency services. For example, emergency management officials in Florida use Census data to plan for natural disasters.[107] Similarly, hospitals use Census data to determine how many health-care providers and what types of doctors are needed in a particular area.[108] An undercount of Latinos could threaten their well-being in this manner as well.

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105. *Treasury, IRS Announce First Round Of Opportunity Zones Designations For 18 States*, U.S. DEP'T OF TREASURY (Apr. 9, 2018), https://home.treasury.gov/news/press-releases/sm0341; see also *Opportunity Zones Resources*, U.S. DEP'T OF TREASURY, CMTY. DEV. FIN. INSTS. FUND, https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx (last accessed Mar. 27, 2019).

106. *See, e.g.*, FCC Connect America Fund Phase II Auction; Notice and Filing Requirements and Other Procedures for Auction 903, 47 C.F.R. 54 (2018).

107. *Economic Census: Uses of Data*, *supra* note 98.

108. Nat'l Research Council, MODERNIZING THE U.S. CENSUS 297 (1995).

In sum, ensuring an "actual Enumeration" through an accurate count of all people in the U.S. is crucial to the allocation of federal funding, the apportionment of political power, and the investment of corporate dollars.[109] Anything less than an "actual Enumeration" would have long-term negative effects on the Latino community.

CONCLUSION

A fair and accurate decennial Census is essential to ensure that the Latino population can realize its potential as an economic and political force. The citizenship question will distort the accuracy of the Census data, which influences everything from the fairness of our democracy to the function of the economy. The district court rightly enjoined the Secretary from including the citizenship question on the 2020 Census. For all the above reasons, this Court should affirm the judgment of the district court.

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109. See U.S. CONST. art. I, § 2, cl. 3.

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Respectfully submitted,

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APPENDIX

APPENDIX — LIST OF ADDITIONAL *AMICI CURIAE*

ASPIRA is the only national organization dedicated exclusively to the education of Latino youth. Its mission is to promote the development of the Latino community through advocacy and the education and leadership development of its youth. ASPIRA has ASPIRA Associates and Affiliates in seven states (Delaware, Illinois, Florida, Massachusetts, New Jersey, New York, Pennsylvania) and Puerto Rico, as well as formal partnerships with over 30 regional and local organizations across the country. Founded in 1961, ASPIRA serves over 45,000 students each year in after-school academic enrichment, tutoring, mentoring, career and college counseling, SAT/ACT Prep, and leadership development programs geared at reducing the exceedingly high Latino drop-out rate and motivating and assisting students to enter higher education. It also reaches over 5,000 parents and young adults with a host of programs, including GED, parental engagement, and financial literacy programs. Through its signature program, the ASPIRA Leadership Development Clubs, ASPIRA reaches young Latinos in over 200 high schools in low-income inner-city schools in 76 communities around the country. ASPIRA operates thirteen charter schools in Delaware, Florida, Illinois, and Pennsylvania with over 10,000 elementary, middle, and high school students. Over 95% of Aspirantes (ASPIRA youth) complete high school and 90% go on to college, and it has an alumni base of over 500,000 Latinos.

Appendix

Casa de Esperanza was founded in 1982 in Minnesota to provide emergency shelter and support services for women and children experiencing domestic violence. In 2009 Casa de Esperanza launched the National Latin@ Network for Healthy Families and Communities, which is a national resource center that provides training & technical assistance, research, and policy advocacy focused on addressing and preventing domestic violence and sexual assault, primarily focused on enhancing access to well-being in Latino and immigrant communities. Casa de Esperanza: National Latin@ Network serves on the Steering Committee of the National Task Force to End Sexual and Domestic Violence and also serves on the board of the National Hispanic Leadership Agenda. The organization has joined in support of this *amicus* brief since we are acutely aware that adding a citizenship question to the census will have a detrimental impact on Latino communities by reducing necessary resources and diluting the political representation of these communities.

Hispanic Federation, Inc. (HF) is a nonprofit membership organization that works to empower and advance the Hispanic community through public policy advocacy, leadership development and community revitalization projects. Established in 1990, Hispanic Federation has grown to become one of the premier Latino organizations in the nation. Through its network of nearly 100 affiliated community-based organizations, HF reaches thousands of Hispanics each year. Based on our decades of serving Latino, immigrant and other communities of color, we know that a fair and accurate enumeration of our nation's population is not possible if a citizenship

question is included in the 2020 Census. The inclusion of this question would adversely affect HF and its affiliates in numerous ways. The communities we serve and care for will be far less likely to cooperate with the Census for fear that any acknowledgement of non-citizenship status will be used against them or their families. A lower count, in turn, will have devastating political and economic consequences for the hundreds of communities, cities and states where our people reside.

The **Hispanic National Bar Association** (HNBA) comprises thousands of Latino lawyers, law professors, law students, legal professionals, state and federal judges, legislators, and bar affiliates across the country. HNBA supports Hispanic legal professionals and is committed to advocacy on issues of importance to the millions of people of Hispanic heritage living in the United States. HNBA regularly appears as *amicus curiae* in this Court.

Hispanics in Philanthropy (HIP) is on a mission to strengthen Latino leadership, voice, and equity by leveraging philanthropic resources and doing so with an unwavering focus on social justice and prosperity across the Americas. As the leader of a transnational network of foundations, donors, and nonprofits, we are making impactful investments in the Latino community and developing our leaders so they can effectively address the most pressing issues impacting our communities in the U.S., Latin America, and the Caribbean.

The **Latino Action Network** (LAN) is a broad, statewide coalition of Latino organizations dedicated to

political empowerment, the promotion of civil rights, and the elimination of disparities in the areas of education, health, and employment. Since our founding in 2009, LAN has been the leading voice for the full count of Latinos in New Jersey and the equitable representation of Latinos in all levels of government.

The **National Conference of Puerto Rican Women, Inc.** (NACOPRW) is a national organization founded in the 1970s in Washington, DC with a mission to advocate for the rights of Puerto Rican and Latina women and for the well-being of all Puerto Ricans. It has chapters in states throughout the country and its members represent women who are the mothers, daughters, wives, granddaughters and siblings of Puerto Ricans living in Puerto Rico.

The **National Hispanic Caucus of State Legislators** (NHCSL) is the preeminent bipartisan organization serving and representing the interests of the, currently, 424 Hispanic state legislators serving in 42 states and Puerto Rico. Since its founding in Colorado in 1989, its mission has been to serve as a catalyst for joint action on issues of common concern to the Hispanic community; a forum for policy information exchange and networking; an institute for leadership training; a liaison with sister U.S. Hispanic and civil rights organizations; and a promoter of public/private partnerships with business and labor. Its bylaws guarantee diversity regarding region, state, gender and party representation in its Executive Committee. NHCSL has partnered, and continues to partner, with the Census Bureau to bolster decennial census response rates. Since NHCSL legislators are

themselves Hispanic; are elected from population-defined districts, many heavily immigrant or Hispanic; depend greatly on Census data to determine state policy; and are responsible for state budgets, including distributing population-allocated Federal block grants, NHCSL has a multi-pronged interest in the accuracy, non-discrimination and completeness of the 2020 Census. To that end, NHCSL has studied issues surrounding the Census deeply and, as a result, unanimously approved an Emergency Resolution Rejecting the Proposed Citizenship Question on the 2020 Decennial Census, following another unanimously approved Resolution Ensuring the Census Works for All Americans.

The **National Hispanic Media Coalition** is a nonpartisan, non-profit, media advocacy and civil rights organization established in 1986 in Los Angeles, California. Its mission is to improve the image of American Latinos as portrayed by the media, increase the number of American Latinos employed in all facets of the media and telecommunications industries, and advocate for media and telecommunication policies that benefit Latinos and other people of color.

The **National Hispanic Medical Association** (NHMA) is a non-profit association representing the interests of 50,000 licensed Hispanic physicians in the United States. NHMA's mission is to empower Hispanic physicians to lead efforts to improve the health of Hispanic and other under-served populations.

Appendix

The **National Latina Institute for Reproductive Health** (NLIRH) is the only national reproductive justice organization dedicated to building Latina power to advance health, dignity, and justice for 28 million Latinas, their families, and communities in the United States though leadership development, community mobilization, policy advocacy, and strategic communications. Reproductive justice will only be achieved when all people have the economic, social, and political power to make decisions about their bodies, sexuality, and reproduction with dignity and autonomy. As a Reproductive Justice organization, NLIRH believe power lies within our community to promote and defend our fundamental human rights. The Census count is critical for the Latina/x community and full participation ensures our community is represented by leaders that serve our needs and receives adequate funding for critical government services.

The **National Latinx Psychological Association** (NLPA) is a nonprofit and nonpartisan organization of mental health professionals, academics, researchers, and students whose objective is to create a supportive professional community that advances psychological education, training, science, practice, and organizational change to enhance the health, mental health, and well-being of Latinx communities. This includes challenging any and all efforts that stand in the way of having everyone's voice heard and counted in the democratic process. As such, NLPA is committed to efforts that can transform the election system into one that is affirmative of the rights of all, particularly our most vulnerable, marginalized, and Spanish speaking populations.

Presente.org's mission is to advance Latinx power and create winning campaigns that amplify Latinx voices; expand the political imagination and traditional boundaries; and foster inspiration for freedom, equity, and justice for all. Founded in 2009, Presente's work was born out of the new context for online activism in the United States and across the world. Presente's core issue areas of civic engagement and democratic participation, are topics that greatly affect the Latinx community, including Presente's 500,000+ members and allies. Presente has worked tirelessly for the last 10 years to advocate for and amplify the tremendous contributions of Latinx communities, which are often unrecognized and uncounted. Civic engagement is one aspect of emerging Latinx power and presence in our democracy. Every year, around 900,000 Latinos turn 18, making it critical for our communities to be counted and that we have institutions that encourage, not restrict, civic participation. According to the Peterson Institution for International Economics, "The Hispanic community in the United States has contributed significantly to US economic growth in recent decades and will continue to do so over the next 10 to 20 years." And with a median age of 28, we are the nation's youngest population, and how our democratic institutions function in the near-term will disproportionately impact a new generation of current and future leaders.

The **United States Hispanic Leadership Institute** (USHLI) is a national, nonprofit organization that promotes education, civic participation, and leadership development for Latinos and other similarly disenfranchised groups. USHLI's mission is to fulfill the promises and principles

of democracy by empowering minorities and similarly disenfranchised groups and by maximizing civic awareness and participation in the electoral process.

Wind of Spirit is a faith based, grassroots, immigrant led, immigrant resource center, non-profit founded by immigrants directly impacted by the unjust and broken immigration system in the United States of America. We believe that those directly impacted must build collective power and advocate for dignity, justice, and human rights. Our mission is to educate, organize and mobilize the immigrant community for social change that reflects the dignity and humanity of all. In light of our mission and community we serve, we acknowledge the importance of an accurate census count in the country, states, and regions, and as such, Wind of Sprit joins this brief.